

B. DPL ISSUE NO. 2: WHAT METHOD SHOULD BE USED TO DETERMINE INTER-CARRIER COMPENSATION?

The parties' positions regarding DPL Issue No. 2 are separated into three areas: the rate symmetry issue, the tandem issue, and the rate structure issue.

1. Rate Symmetry Issue

(a) CLECs' Position

The Coalition states that inter-carrier compensation rates must be symmetrical.⁵⁶ AT&T proposes symmetric reciprocal compensation on a LATA-wide basis.⁵⁷ Based on its own cost study, Taylor Comm. proposes asymmetric rates that are almost twice those approved for SWBT in the Mega-Arbitration proceedings.

(b) SWBT's Position

SWBT argues that inter-carrier compensation rates should be set symmetrically at the total element long-run incremental cost (TELRIC) of a fully efficient competitor.⁵⁸ SWBT avers that there should be a single TELRIC study to measure the forward-looking economic cost of an efficient firm.⁵⁹ SWBT also asserts that there are efficiency consequences of establishing a rate based on costs higher than those of the low-cost provider because when the high-cost provider remains in the market, resources are wasted.⁶⁰

⁵⁶ Coalition's Initial Brief at 34 (April 19, 2000).

⁵⁷ AT&T Initial Brief at 5 (April 19, 2000).

⁵⁸ SWBT Ex. No. 14, Direct Testimony of William Taylor at 5.

⁵⁹ *Id.* at 22.

⁶⁰ *Id.* at 5.

(c) *Commission Decision*

Parties brought two versions of asymmetric rates before the Commission. The first, as proposed by Taylor Comm., involves asymmetric rates between carriers. The second is implicit in SWBT's proposal to segregate ISP-bound traffic from voice traffic.

The Commission adopts the recommendation put forth by the CLEC Coalition for symmetric rates across carriers. The Commission finds that symmetric rates place the interconnected parties, ILEC and CLEC alike, in a position of parity. The Commission further recognizes that symmetrical rates derived from one source--here, the rates set in the Mega-Arbitrations-- are administratively easier to manage than asymmetric rates based on carriers' individual costs. (See additional discussion regarding rates under DPL Issue No. 3.)

Furthermore, the Commission rejects the adoption of different inter-carrier compensation for voice and ISP-bound traffic. At present, the Commission is not persuaded that the methodologies used by SWBT to identify and segregate voice traffic from ISP-bound traffic are reliable or consistent. In reaching this conclusion, the Commission recognizes that voice traffic varies both in call duration and distance, and that any attempt to segregate voice and ISP traffic for the purposes of assessing asymmetric rates would be problematic, at best. Moreover, the Commission does not accept minutes-of-use (MOU), number tracking, or billing records as accurate discriminators of voice and ISP-bound traffic.

2. *Tandem Issue*

The FCC's Local Competition Order dedicates two paragraphs to the so-called "tandem issue."⁶¹ In its discussion, the FCC found that telecommunications carriers can incur additional costs when calls are terminated through a tandem switch. The FCC concluded that states may

⁶¹ *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98 at ¶¶1090-1091 (Aug. 8, 1996) (Local Competition Order).

establish transport and termination rates that vary according to whether the traffic is routed through a tandem switch or directly to the end-office. In setting such rates, the FCC indicated that states must also consider whether new technologies perform functions similar to those performed by an ILEC's tandem switch and whether some or all calls terminating on the new entrants' network should be priced the same as the sum of transport and termination via the ILEC's tandem switch. The FCC also concluded that where the interconnecting carrier's switch serves a geographic area comparable to that of the ILEC's tandem switch, the appropriate proxy for the additional costs incurred is the ILEC's tandem interconnection rate. The resulting FCC rule, 47 C.F.R. 51.711(a)(3), however, only includes comparability to the area served by the ILEC's tandem switch as a precondition for receiving compensation for tandem switching. The FCC also states that the appropriate rate for the carrier other than an ILEC is the ILEC's tandem interconnection rate.

In addressing the tandem issue, the parties devoted considerable effort discussing the New York Public Service Commission (NYPSC) decision concerning reciprocal compensation (NYPSC Order).⁶² The NYPSC's inquiry into reciprocal compensation grew out of the unanticipated development of the substantial imbalance in traffic flows and revenue streams between ILECs and some CLECs with a preponderance of customers, such as ISPs, that receive far more calls than they originate.⁶³ The NYPSC order refers to such traffic as "convergent". The NYPSC order determined that once the ratio of incoming to outgoing traffic reaches 3:1, the inference of predominantly convergent traffic becomes stronger and implies greater efficiency and lower costs in the termination of traffic. The NYPSC order indicates that the inference of lower costs cannot be disregarded if compensation is to be cost-based, but is not conclusive enough to have a definitive effect on rates. Consequently, the NYPSC concluded, in part, that the inference of lower costs could be addressed by a rebuttable presumption allowing a CLEC to

⁶² *Proceeding on Motion of the Commission to Reexamine Reciprocal Compensation, Opinion and Order Concerning Reciprocal Compensation*, State of New York Public Service Commission Opinion and Order Concerning Reciprocal Compensation, Opinion No. 99-10, Case 99-C-0529 (Aug. 26, 1999) (NYPSC Order).

⁶³ *Id.* at 1.

show that its network and service are such as to warrant tandem rate compensation for all traffic.⁶⁴

In this regard, the NYPSC developed a rate structure using a 3:1 ratio of incoming to outgoing traffic as the point after which end-office rates alone would apply. The NYPSC allowed CLECs wishing to collect the tandem rate for traffic above the 3:1 ratio, however, to rebut the presumption that traffic above the ratio costs less to serve by showing that its network and service warrant tandem-rate compensation for all traffic. The NYPSC identified several network design factors that may be used to make such a showing:

- The number and capacity of central office switches;
- The number of points of interconnection offered to other local exchange carriers;
- The number of collocation cages;
- The presence of SONET rings and other types of transport facilities; and
- The presence of local distribution facilities such as coaxial cable and/or unbundled loops.

The NYPSC stated that the presence of some or all of these network components in substantial quantities would demonstrate that the carrier in question was investing in a network with tandem-like functionality, designed to both send and receive customer traffic.⁶⁵

(a) SWBT's Position

SWBT cautions the Commission that customer dispersion should be a consideration when comparing CLEC and ILEC service areas. SWBT witness Mr. Jayroe states that when SWBT serves a wide area but a CLEC serves only a dense downtown area to the exclusion of customers dispersed throughout SWBT's area, the CLEC fails the geographic area comparability test.⁶⁶ SWBT witness Mr. Wynn contends that if a CLEC serves a comparable geographic area

⁶⁴ *Id.* at 59.

⁶⁵ *Id.* 60-61.

⁶⁶ Tr. at 484 and 485 (May 5, 2000).

and incurs additional costs, then it may qualify for the tandem served rate. But given that 92% of traffic are not using a fiber ring but instead using a loop facility, the equivalent of a line facility, there are no additional costs incurred; just as CLECs are serving an end customer.⁶⁷ SWBT deduces that since CLECs have nearly 92% of their traffic go to ISPs, their network must be designed to maximize that revenue instead of designed efficiently to serve voice traffic.⁶⁸ SWBT reports that Taylor states that almost 80% of its ISP customers are collocated and 73% of Allegiance's ISP customers are collocated.⁶⁹

SWBT urges the Commission to adopt a functionality test in addition to the FCC's comparability standard. SWBT observes that there are functional differences between a tandem office switch and an end office switch. A tandem office connects end offices to other end offices, other ILECs, and interexchange carriers, while an end office connects to end-users. Moreover, according to SWBT, a tandem office does not need to record user billing information, supply electric power to the equipment at the end of the line, or convert between analog and digital signals.⁷⁰ Given this difference in functionality, the tandem rate paid by an originating carrier to the terminating carrier is in addition to the end-office rate.

SWBT attests that a CLEC can bypass paying SWBT the tandem rate because SWBT gives all carriers the option to interconnect at either a tandem office switch, end office switch, or both.⁷¹ SWBT calculated that approximately 58% of all CLEC trunks interconnected to SWBT are interconnected to end offices.⁷² SWBT requests that CLECs provide it the same choices for interconnection so that it can control its own costs by bypassing the tandem rates. SWBT

⁶⁷ Tr. at 523, 524 (May 5, 2000).

⁶⁸ Tr. at 556 (May 5, 2000).

⁶⁹ SWBT Ex. No. 16, Direct Testimony of Ed Wynn at 8.

⁷⁰ SWBT Ex. No. 5, Direct Testimony of Robert Jayroe at 13.

⁷¹ ICG witness Mr. Starkey confirmed that CLECs have the option to interconnect with SWBT at both tandem and end office level, and acknowledged that SWBT does not have that same option. *See* Tr. at 543-544 (May 5, 2000).

contends that such choice is not possible from most CLECs, which generally operate switches that perform both tandem and end office functions.

As an initial step, SWBT proposed that the Commission conduct a needs-based test ascertaining whether the revenues CLECs receive from ISPs recover their appropriate costs.⁷³ SWBT also proposed various functionality tests: a "parity of function" test⁷⁴; a facility-based reasonableness test based on a CLEC's incurrence of additional costs⁷⁵; a test addressing whether a CLEC offers SWBT the choice of delivering traffic at a point designated as the CLEC's tandem or at a point designated as the CLEC's end office⁷⁶; and a test requiring proof that the CLEC's network architecture is designed for the mutual exchange of local voice traffic and that the switch is serving end users in a geographic area comparable to a SWBT tandem.⁷⁷

SWBT admits that it also operates switches that perform both a tandem and end office functions, but claims that the two functions are separated in a manner that the tandem portion of the switch carries only trunk-to-trunk traffic.⁷⁸ SWBT witness Mr. Jayroe states that while SWBT may perform its tandem switching and end office switching functions in the same building, it does not collocate with end customers. SWBT avers that function rather than location is relevant; even if the called customer is located across the street from the tandem switch, a tandem function and an end office function could still be performed for that call.⁷⁹

⁷² SWBT Ex. No. 5, Direct Testimony of Robert Jayroe at 14-16.

⁷³ SWBT Ex. No. 16, Direct Testimony of Ed Wynn at 23.

⁷⁴ SWBT Ex. No. 5, Direct Testimony of Robert Jayroe at 14 and 15.

⁷⁵ Tr. at 472, 473, 494 (May 5, 2000).

⁷⁶ SWBT Position Statement at 2 (May 16, 2000).

⁷⁷ *Id.* at 3.

⁷⁸ SWBT Ex. No. 5, Direct Testimony of Robert Jayroe, at 14.

⁷⁹ Tr. at 474-475 (May 5, 2000).

While asserting that the tandem rate should never apply to ISP-bound traffic,⁸⁰ SWBT generally agrees that all of the factors noted by the NYPSC have at least some value as indicia of tandem functionality vis-à-vis non-ISP-bound traffic. SWBT singles out one of the factors as far more significant than the others: the number of points of interconnection offered to other local exchange carriers.⁸¹

Finally, SWBT proposes a streamlined standard for determining CLEC tandem functionality that does not involve any Commission activity.⁸² As an alternative, SWBT proposes an expedited 45-day qualification procedure involving affidavits and certification by the Commission.⁸³

(b) CLECs' Positions

ICG believes that the reciprocal compensation rate paid by the originating carrier should be based on the *capability* that the terminating carrier's network provides, rather than the latter's network design and arrangement.⁸⁴ ICG witness Mr. Starkey further avers that CLEC switches only need to be capable of serving a comparable area, but need not actually serve a comparable area in order for a particular reciprocal compensation to apply.⁸⁵ ICG asserts that this capability should be measured by geographic service area because the networks of most CLECs are built to take advantage of the decreasing costs of transport relative to switching facilities and to efficiently implement new switching technologies. ICG asserts that a reciprocal compensation mechanism that focuses on the underlying equipment used, rather than functionality provided,

⁸⁰ SWBT Position Statement at 2 (May 16, 2000).

⁸¹ *Id.*

⁸² *Id.* at 3.

⁸³ *Id.*

⁸⁴ Coalition Ex. No. ICG-3, Direct Testimony of Don Wood at 28.

⁸⁵ Tr. at 444 (May 5, 2000).

would penalize network designs that are more efficient than their competitor.⁸⁶ Additionally, ICG witness Mr. Wood avers that CLECs connect to SWBT end offices to avoid SWBT's high blocking rate,⁸⁷ rather than to avoid paying the tandem rate.

The Coalition maintains that, to recognize the development of various CLEC network architectures, the Commission should not look beyond the area comparability test.⁸⁸ The Coalition believes that functionality tests are ultimately circular. Coalition witness Mr. Montgomery maintains that it is difficult for a regulator to develop or apply a functionality test in any non-discriminatory fashion because it is difficult to take into account individual CLECs' characteristics in formulating a general rule that is viable. Mr. Montgomery asserts that an area comparability test, on the other hand, is much clearer than any functionality test.⁸⁹

The Coalition also criticizes SWBT's proposal of requiring CLECs to establish multiple points of interconnection, asserting that it is unworkable from a network perspective.⁹⁰ The Coalition asserts that implementation of such a proposal would require a wasteful re-engineering of CLEC's networks because additional points of interconnection to the same switch would waste ports and switching capacity on the CLEC network.⁹¹

Coalition witness Mr. Wood contends that the NYPSC's factors related to network design should not be applied by the Commission in this docket because they fail to identify the relevant functionality provided by a CLEC network.⁹² He contends that regardless of the number of switches, as long as a CLEC can terminate traffic over an ILEC tandem serving area through one

⁸⁶ Coalition Ex. No. ICG-3, Direct Testimony of Don Wood at 28.

⁸⁷ Tr. at 546 (May 5, 2000).

⁸⁸ Coalition Ex. No. CLEC-1, Direct Testimony of William Page Montgomery at 35, 36.

⁸⁹ *Id.* at 36-38.

⁹⁰ Coalition's Reply Brief on Issues Identified by the Commission at 2 (June 1, 2000).

⁹¹ *See generally* Coalition's Reply Brief on Issues Identified by the Commission at 3 (June 1, 2000).

⁹² Coalition Ex. No. 41, Supplemental Testimony of Don J. Wood at 9.

point of interconnection, then the CLEC is providing tandem functionality.⁹³ Mr. Wood also argues that numerous collocation arrangements do not necessarily indicate tandem functionality because they may not enable an ILEC to deliver its traffic to a comparable geographic area through a given point of interconnection. Indeed, he states that a CLEC with fewer collocation arrangements may be able to provide tandem functionality.⁹⁴ Furthermore, Mr. Wood contends that SONET rings and local distribution facilities may not be necessary to provide tandem functionality, given that a CLEC may choose to use wireless distribution facilities.⁹⁵

The Coalition submits that the record in this docket is sufficient for the Commission to order application of the tandem served rate in this proceeding, arguing that it would be a waste of resources to re-create a record in additional proceedings to further address this matter.⁹⁶ The Coalition also offers a process for Commission determinations of CLEC eligibility for the tandem rate.⁹⁷

WCOM notes that FCC's Local Competition Order makes no mention of requiring the same capacity or the performance of similar functions in order for the tandem rate to apply.⁹⁸ Therefore, WCOM concludes that geographic area comparability is the only test to use in making such a determination. WCOM also notes that since SWBT's Project Pronto will move SWBT's network away from the traditional hub-and-spoke architecture to architecture employing more fiber rings. CLECs' non-traditional architecture should be recognized as an innovation to be encouraged rather than penalized. Furthermore, WCOM witness Mr. Price states that the kind of hierarchy that exists in a typical ILEC's architecture is not duplicated in a

⁹³ *Id.*

⁹⁴ *Id.* at 11.

⁹⁵ *Id.*

⁹⁶ Coalition Statement of Position at 1 (June 16, 2000).

⁹⁷ *Id.* at 2.

⁹⁸ WCOM Ex. No. 1, Direct Testimony of Don Price at 30-32.

CLEC's network.⁹⁹ WCOM also submits that numerous point of interconnection should not be a requirement for a CLEC to meet the geographic comparability test.¹⁰⁰ WCOM urges the Commission to reject SWBT's proposal to establish rules requiring any migration from tandem to end office trunks.¹⁰¹

e.spire witness Mr. Falvey argues that, due to carriers' different architecture arrangements, the FCC has clearly found that a switch architecture analysis, which partitions a CLEC switch into an end office switch and a tandem office switch, is irrelevant for purposes of determining when the CLEC qualifies for a tandem rate.¹⁰²

Intermedia witness Mr. Jackson states that many ILECs require CLECs to route traffic directly to end offices after a certain level of traffic has occurred. But, he observes, overflow traffic from end office trunks can be directed to a tandem switch, if the ILEC chooses to do so. Consequently, Mr. Jackson does not view the overflow of traffic to a SWBT tandem switch as a "privilege" to connect to the tandem switch. Rather, Mr. Jackson views such a situation as a failure of SWBT to provide sufficient information to allow CLECs to set up more direct end office trunking.¹⁰³

AT&T witness Mr. Zubkus posits that the only relevant consideration in determining if the tandem rate applies is whether the CLEC's switch is capable of serving the ILEC's tandem area.¹⁰⁴ AT&T also submits that none of the factors outlined by the NYPSC contain a bright-line threshold for rebutting the presumption that the tandem rate is not due.¹⁰⁵ Furthermore, AT&T

⁹⁹ Tr. at 492 (May 5, 2000).

¹⁰⁰ SWBT's Supplemental Brief on the "Blended Rate" Issue at 6 (May 26, 2000).

¹⁰¹ WCOM's Brief on Issues Raised in the May 18th Hearing at 2 (May 26, 2000).

¹⁰² Tr. at 492 (May 5, 2000).

¹⁰³ Tr. at 549, 550 (May 5, 2000).

¹⁰⁴ Tr. at 439, 442 (May 5, 2000).

¹⁰⁵ AT&T Ex. No. 12, Direct Testimony of Javier Rodriguez at 8.

argues that those factors appear to be ILEC-centric. For example, the number of points of interconnection offered to other exchange carriers "suggests a tendency to look at requiring CLECs to mirror the ILEC's tandem/end office architecture."¹⁰⁶ AT&T believes that it is entitled to the full tandem rate and observes that the standard for qualification of tandem interconnection rate is "the Commission will know it when they see it."¹⁰⁷ AT&T believes that it is entitled to the tandem switching element because its switches provide the functionality and geographic scope of SWBT's tandems.¹⁰⁸

(c) *Commission Decision*

The Commission acknowledges that the relevant language in the FCC's Local Competition Order (§1090, 1091) does not precisely match the language in 47 C.F.R. 51.711(a)(3). Given the FCC's discussion in the First Report and Order, the Commission concludes that a terminating carrier shall be compensated for the "additional costs" incurred when using tandem functions to terminate traffic.

The Commission disagrees with the CLECs' assertion that the FCC's rules require only a showing that the terminating carrier's switch has the capability of serving the same geographic area as the ILEC's tandem switch. The Commission concludes that in order for a CLEC that does not have a hierarchical, two-tier switching system to receive reciprocal compensation for performing tandem functions, the CLEC must demonstrate that it is actually serving the ILEC tandem area using tandem-like functionality, instead of just demonstrating the capability to serve the comparable geographic area. In making this functionality determination, the Commission shall consider a number of network design factors, which include, but are not limited to:

- 1. the number and capacity of central office switches;*

¹⁰⁶ Coalition Ex. No. 41, Supplemental Testimony of Don J. Wood at 8.

¹⁰⁷ AT&T's Supplemental Brief on Tandem Issue at 12 - 13 (May 26, 2000).

¹⁰⁸ AT&T Ex. No. 7, Direct Testimony of Jon A. Zubkus at 7.

2. *the number of points of interconnection offered to other local exchange carriers;*
3. *the number of collocation cages;*
4. *the presence of SONET rings and other types of transport facilities;*
5. *the presence of local distribution facilities such as coaxial cable and/or unbundled loops; or*
6. *any other indicia reliably demonstrating that the LEC is transporting a significant volume of traffic to a geographically dispersed area.*

These factors are similar to those employed by the NYPSC in addressing the tandem issue and incorporate the FCC's geographic area test. Because a carrier's proof of actual tandem functionality will be fact-driven, a LEC may demonstrate such functionality either in an arbitration proceeding or other appropriate proceeding designated by the Commission. As noted in Section V.B.3 of this Award, however, a CLEC that does not have a hierarchical, two-tier switching system must demonstrate actual tandem-like functionality only at the point the ratio of its terminating-to-originating traffic reaches a certain threshold. Up to that point, it is presumed that the CLEC is actually performing tandem functions to the same degree as SWBT.

3. *Rate Structure*

Throughout the proceeding, parties discussed various options for reciprocal compensation, ranging from the adoption of bill-and-keep, rate caps, the Mega-Arbitration rate structure, and a staff proposal.

(a) *Staff Proposal*

Commission Staff proposes the adoption of a "tandem blended rate" employing the following rate structure: end office rate + (tandem rate x % SWBT tandems used) + (transport x % SWBT tandems used). In the proposal, the resulting rate would apply to all traffic up to a specified cap.¹⁰⁹

¹⁰⁹ See Order Nos. 8 and 9 (May 19 and 22, 2000).

(b) *CLECs' Position*

WCOM emphasizes that the relevant components of the Mega-Arbitration rate structure for inter-carrier compensation include end office switching, tandem switching and interoffice common transport.¹¹⁰ To the extent that the Commission considers a ratio or a blended rate, WCOM's prefers a blended rate that rewards CLECs that utilize a high percentage of direct end office trunking.¹¹¹

Taylor Comm. proposes asymmetric per minute rates between carriers. It proposes to pay SWBT at SWBT's cost, while SWBT would pay Taylor Comm. at Taylor Comm.'s cost.¹¹² Under Taylor Comm.'s proposal, SWBT would pay Taylor Comm. rates in excess of what Taylor Comm. would pay SWBT. Additionally, Taylor Comm. equates bill-and-keep to a very efficient bartering arrangement that makes sense only when traffic is in balance between the two carriers. Taylor Comm. argues that if traffic is not in balance, however, one carrier performs all the work and the other carrier gets a free ride if a bill-and-keep compensation scheme is adopted.¹¹³

The Coalition maintains that the Commission should adopt the existing Mega-Arbitration rate structure.¹¹⁴ Coalition witness Mr. Montgomery explains that the bill-and-keep method was historically an informal process used typically between a larger ILEC and a smaller ILEC in a monopoly environment. Mr. Montgomery stresses that LECs agreed to such arrangements when they exclusively served service areas and did not compete with each other. He contends that today, in a competitive environment, there is a need for an arm's-length mechanism by which carriers compensate each other for the termination of calls.¹¹⁵

¹¹⁰ WCOM Ex. No. 1, Direct Testimony of Don Price at 4.

¹¹¹ WCOM's Brief on Issues Raised in the May 18th Hearing, at 2 (May 26, 2000).

¹¹² See generally Taylor Comm. Ex. No. 1, Direct Testimony of August H. Ankum and Taylor Comm. Ex. No. 5, Supplemental Testimony of Dr. August Ankum.

¹¹³ Tr. at 167 (April 4, 2000).

¹¹⁴ Coalition Ex. No. CLEC-1, Direct Testimony of William Page Montgomery at 25.

The Coalition further states that “[it] does not quarrel with certain of the intended results of the tandem blended rate approach.”¹¹⁶ The Coalition acknowledges that the tandem blended rate is simple to administer and may eliminate many disputes, and also recognizes that such a rate recognizes the CLECs’ legal right to receive compensation for tandem switching and transport costs. The Coalition also appreciates that the proposal requires that symmetric rates be based on ILEC costs. The Coalition “strongly objects”, however, to the proposal, due to the elements in its rate formula and the consequences of its implementation.¹¹⁷ It indicates that the level of CLEC direct trunking to SWBT end offices is not a meaningful proxy by which to reduce SWBT’s or a CLEC’s rates for terminating another carrier’s traffic. The Coalition further argues that the formula mistakenly assumes that less use of a tandem by a CLEC equals less tandem functionality. Moreover, it contends that the proposed tandem blended rate’s use of a specific percentage is flawed because the use of tandem versus direct end-office switching is constantly changing.¹¹⁸ Finally, the Coalition avers that the proposed tandem blended rate will either under- or over-compensate most CLECs most of the time.

The Coalition also strongly urges the Commission to avoid imposing separate rates for individual CLECs.¹¹⁹ The Coalition proposes a default rate, that is, the end office switching rate plus the tandem-switching rate, without the transport rate. Nevertheless, under the Coalition’s proposal, a CLEC is still given a choice to receive compensation for transport if it demonstrates that it terminates traffic beyond the footprint of an ILEC’s end office.¹²⁰

Allegiance states that it is not opposed to the concept of a tandem blended rate as long as it is applied symmetrically, to all local traffic and without any ratio or cap. Allegiance further

¹¹⁵ Tr. at 154-155 (April 4, 2000).

¹¹⁶ Coalition’s Brief on Issues Identified by the Commission at 6 (May 26, 2000).

¹¹⁷ SWBT’s Supplemental Brief on the “Blended Rate” Issue at 6 (May 26, 2000).

¹¹⁸ *Id.* at 7.

¹¹⁹ *Id.* at 8.

¹²⁰ *Id.* at 11.

states that such a blended rate would facilitate billing and avoid disputes over eligibility for the tandem rate.¹²¹ Finally, Allegiance contends that the imposition of the tandem blended rate will not encourage or require CLECs to build inefficient networks, given that many of the first generation of interconnection agreements provide for use of blended reciprocal compensation rates.¹²²

AT&T proposes symmetric rates for reciprocal compensation on a LATA-wide basis.¹²³ Under this LATA-wide proposal, in instances in which AT&T purchases UNEs from SWBT, AT&T proposes the use of a bill-and-keep compensation scheme.¹²⁴ In support of its proposal, AT&T concludes that nothing in the FTA prohibits a state from expanding the definition of "local traffic" beyond "mandatory EAS" for the purposes of § 251(b)(5).¹²⁵ AT&T states that there are "laudable" aspects of Staff's tandem blended rate proposal, but the problems with the proposal far outweigh its potential benefits.¹²⁶ AT&T contends that the proposed tandem blended rate will improperly encourage network deployment based on reciprocal compensation.¹²⁷ Because it seeks to configure a network architecture to interconnect only at SWBT tandems, AT&T avers that the tandem blended rate would be grossly unfair to it, given that other CLECs may choose to interconnect more often at SWBT end offices.¹²⁸

¹²¹ Allegiance Post 5-18-2000 Hearing Brief, at 4 (May 26, 2000).

¹²² *Id.* at 6.

¹²³ See AT&T Ex. No. 5, Direct Testimony of Maureen A. Swift at 4; AT&T Initial Post-Hearing Brief at 5 (April 19, 2000). In its pending arbitration proceeding with SWBT, Docket No. 22315, AT&T has proposed an interconnection architecture in which AT&T is responsible for delivering traffic to SWBT's tandems and SWBT is responsible for delivering traffic to AT&T's own switches. If this interconnection architecture is not adopted, then AT&T will pay SWBT according to levels of switching offices connected, while SWBT will pay AT&T the three-part tandem rate. *Petition of Southwestern Bell Telephone Company for Arbitration with AT&T Communications of Texas, L.P., TCG Dallas, and Teleport Communications, Inc. Pursuant to Section 252(B)(1) of the Federal Telecommunications Act of 1996*, Docket No. 22315 (pending).

¹²⁴ AT&T Ex. No. 5, Direct Testimony of Maureen A. Swift at 10.

¹²⁵ *Id.* at 9.

¹²⁶ AT&T's Supplemental Brief on Tandem Issues at 4, 5 (May 26, 2000).

¹²⁷ *Id.* at 5.

(c) *SWBT's Position*

SWBT suggests two methods for minimizing what it characterizes as the CLECs' over-recovery of compensation related to the termination of ISP-bound traffic: (1) a cap on the total amount of inter-carrier compensation that a CLEC receives for terminating ISP-bound traffic, which limits the amount of such compensation to two times the amount of compensation the CLEC pays to the ILEC, or (2) the use of a proxy for the appropriate costs incurred by CLECs in providing services to ISPs.¹²⁹

Anticipating that CLECs may allege that it is difficult to track voice versus ISP-bound traffic, SWBT proposes that the existing TELRIC-based reciprocal compensation rate would apply to traffic that is relatively in balance between SWBT and the CLEC. More specifically, SWBT states that these rates will apply for traffic that is in balance at a 2:1 terminating-to-originating ratio between SWBT and a CLEC.¹³⁰ Under this proposal, if traffic "exceeds" this 2:1 ratio, SWBT indicates that it is appropriate to presume that the excess is ISP-bound traffic. Despite this presumption, however, SWBT concedes that CLECs would be given the opportunity to prove that the traffic in excess of this 2:1 ratio is voice traffic and subject to compensation using existing TELRIC-based rates.¹³¹ With regard to traffic in excess of the 2:1 ratio that the CLEC does not demonstrate to be voice traffic, SWBT asserts that only the tandem switching rate should apply to the termination of such traffic.¹³² SWBT declines to characterize its

¹²⁸ *Id.* at 6.

¹²⁹ SWBT Ex. No. 16, Direct Testimony of Ed Wynn at 26.

¹³⁰ *Id.* at 27.

¹³¹ SWBT substantiates this 2:1 ratio by a traffic study, which spans from 1997 to 1999. During this time period, SWBT terminated 1.5 billion local non-ISP minutes of use (MOUs) to the CLECs participating in this proceeding, while these same CLECs terminated to SWBT 1.2 billion MOUs. Based on this data, SWBT claims that the balance of traffic that is truly local would be 1.32:1. SWBT recommends using this ratio as a surrogate for distinguishing ISP traffic. *See* SWBT Ex. No. 16, Direct Testimony of Ed Wynn at 27.

¹³² *Id.* at 28.

proposal as effectively akin to a bill-and-keep methodology, stating that ISP-bound traffic has a different compensation scheme due to the FCC's ISP exemption relating to access.¹³³

SWBT states that it does not have significant objections to the use of Staff's tandem blended rate in certain contexts, provided that concrete trunking rules are also adopted to ensure that CLECs move traffic from SWBT's tandem trunks to direct end office trunks when specific traffic volume limits are exceeded.¹³⁴ SWBT emphasizes that if the Commission adopts a tandem blended rate, then it should clarify that CLECs are limited as to the volume of traffic they may deliver to SWBT's tandem before being required to establish direct trunking to end offices.¹³⁵ Regarding the imposition of a cap, SWBT states that "a two to one ratio would work; a three to one would also be within the permissible."¹³⁶ However, SWBT states that any over-compensation "could be mitigated by setting an absolute cap at a two-to-one, rather than a three-to-one, imbalance."¹³⁷ SWBT states that, due to the administrative ease in using such a tandem blended rate, it could have significant advantage over any multi-factor functional test such as that adopted by the NYPSC.¹³⁸

SWBT rejects the Coalition's "compromise" proposal, arguing that it will over compensate for ISP-bound traffic, violates federal law, and is administratively burdensome.¹³⁹ Also, SWBT maintains that AT&T's LATA-wide proposal goes beyond what is allowed under state and federal law.¹⁴⁰ SWBT believes that AT&T's LATA-wide proposal in effect reduces AT&T's costs of serving a concentrated base of business customers and ISPs without also

¹³³ Tr. at 102-106 (April 4, 2000).

¹³⁴ SWBT's Supplemental Brief on the "Blended Rate" Issue at 3 (May 26, 2000).

¹³⁵ *Id.* at 4.

¹³⁶ Tr. at 619 (May 18, 2000).

¹³⁷ SWBT's Supplemental Reply Brief on the "Blended Rate" Issue at 6 (June 1, 2000).

¹³⁸ SWBT's Supplemental Brief on the "Blended Rate" Issue at 5-6 (May 26, 2000).

¹³⁹ SWBT's Supplemental Reply Brief On the "Blended Rate" Issue at 6-7 (June 1, 2000).

serving geographically dispersed residential customers.¹⁴¹ SWBT further contends that AT&T's proposal cannot possibly be cost-based if it sets the same rate for local, toll, and access traffic terminated within an entire LATA.¹⁴² Because AT&T terminates less traffic than it originates, SWBT argues that AT&T would be over-compensated under its proposal, while at the same time avoiding payment of appropriate access charges related to interexchange traffic.¹⁴³

(d) Commission Decision

The Commission prefers the bill-and-keep method over any of the other proposals reviewed in this proceeding. While the Commission hopes that bill-and-keep will become a viable option as the market matures, it nevertheless recognizes that current volumes of traffic between carriers do not support adoption of the bill-and-keep method as a general rule at this time.

The Commission has long viewed the minute-is-a-minute approach as a goal by which to base compensation between carriers. AT&T's LATA-wide proposal, however, has implications for ILEC revenue streams, such as switched access, that have not been fully examined in this proceeding. Consequently, the Commission declines to adopt AT&T's LATA-wide proposal because it has ramifications on rates for other types of calls, such as intraLATA toll calls, that are beyond the scope of this proceeding.

The Commission applauds the introduction and application of advanced technologies. The Commission finds, however, that the current means by which reciprocal compensation is accomplished has contributed to a significant imbalance of traffic between originating and terminating carriers. In other words, the current scheme has created perverse economic

¹⁴⁰ SWBT Post-Hearing Brief at 38-39 (April 19, 2000).

¹⁴¹ *Id.* at 39.

¹⁴² SWBT Ex. No. 8, Rebuttal Testimony of Randy Long at 17.

¹⁴³ *Id.* at 19.

incentives that result in an imbalance in revenues between certain interconnected carriers, in favor of the termination carrier.

The Commission concludes that the use of a threshold traffic ratio is an equitable device by which an originating carrier's costs can be mitigated and the efficient delivery of traffic maintained. The Commission finds that the "tandem blended rate" approach is appropriate up to a 3-1 (terminating traffic to originating traffic) threshold imbalance.¹⁴⁴ As stated below, this tandem blended rate reflects that only a percentage of the calls switched use tandem functions and are terminated in a geographically dispersed area. The record in this docket supports these conclusions. When a carrier exceeds that 3-1 ratio threshold, it is reasonable to presume that predominately convergent traffic is occurring and the "excess" traffic should be compensated using the end office rate only. The Commission notes that this presumption, however, is rebuttable. The terminating carrier may demonstrate "actual tandem-like functionality" in the delivery of this "excess" using various network design factors adopted in Section V.B.2 of this Order.

The Commission concludes that it is not equitable to allow the full tandem rate to be assessed by a terminating carrier on every call. For some calls, tandem switching is undisputedly involved, while for others, only end-office switching is used. The Commission determines that the "tandem blended rate" shall include a rate factor that corresponds to 42% of the sum of the tandem switching and interoffice transport costs. That factored amount shall be added to the end office rate to arrive at the total "tandem blended rate". The Commission encourages a diverse interconnected network as a matter of policy and does not seek to impose or dictate an ILEC's network configuration upon CLECs. Because FCC rules require that the reciprocal compensation rates be based upon an ILEC's forward-looking costs, it is equitable to use the SWBT percentage (42%) as a proxy for the determination of the "tandem blended rate".

With respect to a hierarchical or two-tier switch network, the Commission finds that the actual use of tandem switching facilities is easily discernible. If only an end office switch is

employed to terminate traffic, then only the end office rate shall be applied. If a tandem switch is used for the termination of traffic, then the tandem rate shall apply.

In summary, the Commission adopts the following rate structure as the mechanism for payment of reciprocal compensation:

- 1. For traffic terminated by a LEC with two-tier or hierarchical switches, i.e., separate switches performing tandem and end office functions:*
 - When tandems are used, the originating LECs pay the tandem rate (end office switching + tandem switching + interoffice transport).*
 - For purposes of the tandem served rate, the end office rate is a bifurcated rate (set-up per call and duration), and the tandem switching and interoffice transport rates are the Mega-Arbitration rates previously adopted by the Commission.*
 - When tandems are not used, the originating LECs pay the end office rate only.*
- 2. For traffic terminated by a LEC that does not have two-tier or hierarchical switches:*
 - A tandem blended rate (end office switching + % of [tandem switch + interoffice transport]) applies.*
 - For purposes of this tandem blended rate, the end office rate is a bifurcated rate (set-up per call and duration); the tandem and transport rates are the rates adopted in the Mega-Arbitrations; and the % is an average percentage of tandems used by CLECs on SWBT's network (42%).*
 - This tandem blended rate applies until a 3:1 ratio (terminating to originating traffic) threshold is reached.*
 - After the 3:1 ratio threshold is reached, only the end office rate applies, unless the terminating carrier demonstrates actual tandem functionality.*
 - Upon a demonstration of actual tandem functionality, the terminating carrier will receive the tandem blended rate for all traffic.*
 - LECs may demonstrate actual tandem functionality either in an arbitration proceeding or other proceeding designated by the Commission.*

¹⁴⁴ The Commission notes that a carrier without any originating traffic cannot, as a practical matter, qualify for the tandem blended rate and will receive the bifurcated end office rate.

C. DPL ISSUE NO. 3 - WHAT RATES SHOULD APPLY?

All parties agree that the TELRIC principles drive the determination of rates in this docket. TELRIC requires that a cost study employed to set such rates be forward-looking in nature; use an efficient network and engineering framework; and not use embedded costs.¹⁴⁵ Taylor Comm. is the only CLEC in this docket that presented its own cost study. The other parties rely on cost studies previously approved by the Commission.

I. Taylor Comm. Cost Study, Request for Carrier-Specific Rates, and Asymmetric Rates**(a) Taylor Comm.'s Position**

Taylor Comm. contends that it should receive higher reciprocal compensation rates than SWBT because its costs to terminate calls are higher. Since its business plan results in a customer base that is disproportionately comprised of ISPs, Taylor Comm. asserts that its cost structure is different from that of SWBT and other companies.¹⁴⁶ Taylor Comm. proposes a minutes of use (MOU) rate structure to recover its compensation from SWBT.¹⁴⁷

Taylor Comm. notes that most of its costs are volume sensitive, and that it is capable of identifying its incremental costs very efficiently.¹⁴⁸ As proof that its costs are different from those of other carriers, Taylor Comm. submitted a cost study (the QSI study) that initially calculated its cost for call termination as roughly \$0.004431 per minute.¹⁴⁹ Taylor Comm. claims that the QSI study is consistent with TELRIC principles. Specifically, Taylor Comm.

¹⁴⁵ See 47 C.F.R. § 51 Subpart F.

¹⁴⁶ Taylor Comm. Ex. No. 4, Rebuttal Testimony of Charles Land at 20.

¹⁴⁷ Tr. at 356 (April 5, 2000). Because the costs to terminate a call are not constant through the duration of a call, this type of recovery mechanism requires an assumption about the average call length. Taylor Comm. has not disclosed how it determined the average call time in its cost study, or even what it is.

¹⁴⁸ Taylor Comm. Ex. No. 4, Rebuttal Testimony of Charles Land at 20.

¹⁴⁹ See Taylor Comm. Ex. No. 1-11, Taylor Switching Cost Study.

indicates that no adjustments are needed in the study because the study assumes only efficiently located, state-of-the-art facilities. Further, Taylor Comm. avers that the most recent actual traffic data represent Taylor Comm.'s total company-wide demand for switching.

According to Taylor Comm., the study is designed to capture expenses and outputs as they may be expected to occur on an ongoing basis. Taylor Comm. further explains that the study identifies all necessary facilities for providing switching functions and assigning costs as either traffic sensitive or non-traffic sensitive. In this regard, Taylor Comm. confirms that only the traffic sensitive costs of switches are included in the study.¹⁵⁰ The QSI study uses as inputs: capital switching costs,¹⁵¹ costs of connections to end-users from Taylor Comm.'s central offices, and trunking costs to reach SWBT switching facilities. The QSI study also assumes the economic life of a switch to be 18 years.¹⁵²

The QSI study links general and administrative costs to MOU based upon the demands on labor for each element. The QSI allocates the overhead costs based on headcount so the expenses follow labor costs, *e.g.*, if a person is assigned to retail related activities, then office and supply related expenses are proportionally assigned to retail activities. Taylor Comm. witness Dr. Ankum states that costs associated with "service to end-users have no place in a study for switching costs."¹⁵³ However, when asked about a specific line of costs labeled "end-user T-1s" in the Taylor Comm. cost study, Dr. Ankum states that these connections were usually to Taylor Comm.'s ISP customers, therefore demonstrating that costs associated with service to end-users are included in the QSI study.¹⁵⁴

¹⁵⁰ Taylor Comm. Ex. No. 1, Direct Testimony of Dr. August Ankum at 36-40.

¹⁵¹ All switching equipment in the QSI study is leased from Siemens. *See* Taylor Comm. Ex. No. 1-11, Taylor Switching Cost Study at 8. The lease is for a five-year period. *See* Tr. at 417 (April 5, 2000).

¹⁵² Taylor Comm. Ex. No. 1-11, Taylor Switching Cost Study at 9.

¹⁵³ Taylor Comm. Ex. No. 1, Direct Testimony of August H. Ankum at 49.

¹⁵⁴ Tr. at 365-366 (April 5, 2000).

After the initial hearing on the merits, Taylor Comm. amended the QSI study inputs and revised its proposed rate from \$0.004431 per minute to \$0.002858 per minute, a 35% reduction.¹⁵⁵ In its revised cost study, Taylor Comm. addresses two issues raised in hearing: fill factors and return to capital.¹⁵⁶ Dr. Ankum changed the cost study to conform the Commission-approved rates of return used in the Mega-Arbitrations and modified the trunk utilization factor from 55% to the Commission-approved 75%. Dr. Ankum also increased the annual traffic estimate to 3.2 billion MOU in the revised cost study.¹⁵⁷

(b) SWBT Position

SWBT believes that the inter-carrier compensation rate should be set symmetrically at the TELRIC of a fully efficient competitor.¹⁵⁸ SWBT declares, therefore, that different assumptions about traffic volumes, depreciation lives, fill factors, or cost of capital should not matter if the forward-looking economic cost of terminating traffic is measured using the parameters of an efficient firm. SWBT warns that there are efficiency consequences of establishing a rate based on costs higher than those of the low-cost provider and states that when high-cost supplier remains in the market, resources are wasted.¹⁵⁹

SWBT contends that Taylor Comm.'s cost study does not follow TELRIC principles. SWBT states the QSI cost study is a snapshot of Taylor Comm.'s current situation and is not necessarily indicative of future switch capacity and the ability to change capital expenditure.¹⁶⁰

¹⁵⁵ Taylor Comm. Ex. No. 5, Supplemental Testimony of Dr. August Ankum at 16; Post-Hearing Brief at 29-31 (April 19, 2000).

¹⁵⁶ Tr. at 320-324, 361-365, and 419-427 (April 5, 2000). SWBT also criticized Taylor Comm.'s utilization and its inclusion of return on capital in the QSI study. See SWBT Ex. No. 15, Rebuttal Testimony of William Taylor at 5 and 17-18.

¹⁵⁷ Taylor Comm. Ex. No. 5, Supplemental Testimony of Dr. August Ankum at 15.

¹⁵⁸ SWBT Taylor Direct, at 5.

¹⁵⁹ *Id.*

¹⁶⁰ SWBT Ex. No. 15, Rebuttal Testimony of William Taylor at 14-16.

SWBT disagrees with Taylor witness Dr. Ankum's assertion that CLECs experience higher costs due to lower switch utilization levels and lack of scale economies.¹⁶¹ SWBT states that manufacturers sell small switches and that CLECs can purchase switching capacities according to their demand. SWBT also argues that extra capacities can be added in the form of small a number of lines and, therefore, CLECs should not experience lower switch utilization levels. SWBT submits that lower costs are an important advantage resulting from economies of scale that SWBT should be encouraged to explore. According to SWBT, customers should not have to pay more, directly or indirectly, simply because a small firm has higher costs.¹⁶²

SWBT also argues that Taylor Comm.'s cost study wrongly includes a return on capital for leased switches. SWBT contends that lease payments are expenses, not capital investments. SWBT states that since Taylor Comm. has no capital investments in the leased switches, the opportunity costs and the normal profit from the switches is zero.¹⁶³ SWBT concludes that by using the current lease expenses in the QSI model, the cost study becomes one based on embedded costs, rather than forward-looking costs. SWBT contends that the QSI cost study computes switching costs with similar logic. The QSI cost study divides current lease payments by the current number of minutes to arrive at the switching costs per minute. This, by definition, makes the QSI cost study a short-term rather than long-run study, according to SWBT. SWBT maintains that the lease payments also appear to be higher than the capital costs of the same equipment, thus overstating Taylor Comm.'s costs.¹⁶⁴

Finally, SWBT alleges that the QSI study does not incorporate overhead expenses, including entertainment costs and recycling fees in a proper way.¹⁶⁵

¹⁶¹ *Id.* at 5.

¹⁶² *Id.* at 6.

¹⁶³ *Id.* at 17-18.

¹⁶⁴ *Id.* at 13-14.

¹⁶⁵ Tr. at 529-530 (May 18, 2000).

(c) *Commission Decision*

The Commission finds that Taylor Comm.'s cost study does not follow TELRIC principles and, therefore, cannot be used to determine reciprocal compensation rates. The Commission acknowledges the adjustments that Taylor Comm. made to the QSI study but notes that the revised rate of \$0.002858 per minute is still significantly higher than the end office rate of \$0.001507 approved in the Mega-Arbitrations. While the FCC allows a CLEC to petition for higher reciprocal compensation rates than those of the ILEC, the CLEC must show that it is using the most cost-effective, forward-looking method possible to serve customers.¹⁶⁶ Taylor Comm. failed to meet this burden.

Taylor Comm.'s inclusion of the costs of connecting its end-use customers to its switches is the most fundamental flaw of the QSI cost study. The Commission agrees with SWBT that those costs should not be included in the calculation of reciprocal compensation. The Commission concludes that Taylor Comm.'s inclusion of these costs results in a significant overestimation of costs by the QSI cost study. The Commission suspects that if these elements were deleted from the study, Taylor Comm.'s rates would be much closer to those approved in the Mega-Arbitration proceedings.

The Commission also agrees with SWBT that the QSI study should use switch capacity rather than actual demand. The Commission concludes that the use of actual demand violates TELRIC principles.

Further, although Taylor Comm. states that only traffic-sensitive elements should be included in reciprocal compensation rates, it assigns the majority of costs associated with elements such as recycling fees and entertainment to the traffic-sensitive portion of the QSI cost study. The Commission finds that Taylor Comm.'s failure to sufficiently explain the relationship between these elements and the number of minutes terminated in its switch further undermines the cost study's results.

2. *Southwestern Bell Cost Study and ISP-Specific Reciprocal Compensation Rates*

(a) *SWBT Position*

SWBT supports the use of the Mega-Arbitrations' local switching UNE cost study to determine the appropriate rates for the termination of local voice traffic. The cost study includes the investment necessary for call set-up, call termination, and vertical services. SWBT contends, however, that ISP-bound traffic does not require the use of all of these functions and argues that the total costs in that study should not be attributed to ISP-bound traffic. SWBT also indicates that the average hold times are approximately three minutes for voice calls as compared to 29 minutes for Internet calls.¹⁶⁷ SWBT notes that a principal reason that it is less costly to terminate an ISP-bound call than a voice call is the longer average hold time. SWBT explains that a comparison of one 29-minute ISP-bound call to the equivalent minutes of voice calls yields nine additional call set-ups for the voice calls. Moreover, SWBT states that the stable and longer ISP-bound call does not require as many network resources as calls that have a much shorter average holding time. SWBT concludes that each time a call is set-up and torn down, additional network resources are used compared to a call that is more stable.¹⁶⁸

SWBT relies on its ISP-bound traffic (IBT) cost study to demonstrate that ISP-bound traffic is fundamentally different from voice traffic and should not be subject to reciprocal compensation, although SWBT does not propose that the cost study be used to set rates.¹⁶⁹ SWBT's IBT cost study measures costs associated only for dial-up, 56 kilobit Internet calls. SWBT contends that the difference in call duration between voice and ISP-bound traffic justifies separating the traffic for rate purposes, with ISP-bound traffic costing approximately 20% the cost of voice traffic. In addition to using a 29-minute average hold time for ISP-bound traffic,

¹⁶⁶ 47 C.F.R. 51.711(b).

¹⁶⁷ SWBT Ex. No. 16, Direct Testimony of Ed Wynn at 7.

¹⁶⁸ SWBT Ex. No. 5, Direct Testimony of Robert Jayroe at 6.

¹⁶⁹ SWBT Ex. No. 13, Rebuttal Testimony of Barbara Smith at 6-7.

SWBT states that the IBT cost study assumes that the switches terminating the ISP-bound traffic have no vertical services, which it contends are unnecessary for ISP-bound calls, and are the absolute minimum necessary to complete the ISP connection.¹⁷⁰ SWBT explains that its voice traffic study, however, does not make these assumptions, but rather includes the programming of vertical and other services into the switch, thereby increasing the switching costs for voice traffic, regardless of the call duration. Despite these differences in the cost studies, SWBT admitted on cross-examination that ISP-bound traffic uses the same switches and the same network as voice traffic.¹⁷¹

The peak traffic hour in the SWBT IBT study is assumed to be the peak hour for ISP traffic. SWBT asserts that this peak hour increases costs because it requires more switching resources to accommodate increased usage at the peak hour. SWBT also contends that the switches must be engineered in a manner to handle all traffic, not just a subset of traffic.¹⁷²

(b) CLECs' Positions:

Taylor Comm. avers that the costs associated with the termination of ISP traffic are the same as that for traditional voice traffic. Taylor Comm. contends that the SWBT IBT cost study erroneously concludes that the costs associated with terminating ISP-bound traffic are a fraction of those approved in the Mega-Arbitrations. Taylor Comm. also argues that the SWBT IBT cost study does not follow TELRIC principles and is not representative of CLEC costs.¹⁷³ According to Taylor Comm., SWBT's assumption of a host/tandem architecture is not accurate for most CLECs and underestimates CLEC costs. Taylor Comm. states that although the host/tandem architecture allows switches to share functionality and, therefore, lower their costs, CLECs do

¹⁷⁰ SWBT Ex. No. 13, Rebuttal Testimony of Barbara Smith at 3-4 and SWBT Ex. No. 19, SWBT IBT Cost Study at SWBT200005.

¹⁷¹ Tr. at 199-204 (April 4, 2000).

¹⁷² SWBT Ex. No. 15, Rebuttal Testimony of William Taylor at 10-11.

¹⁷³ Taylor Comm. Ex. No. 1, Direct Testimony of August H. Ankum at 52-53, 55; Taylor Comm. Ex. No. 4, Rebuttal Testimony of Charles Land at 13-14.

not use this type of architecture because they have yet to achieve the size of ILECs such as SWBT.¹⁷⁴

WCOM and ICG state that reciprocal compensation rates should be symmetric and should include ISP-bound traffic.¹⁷⁵ These CLECs contend that symmetric rates promote efficiency and low-cost methods for terminating calls because they allow exceptionally efficient carriers a higher profit.¹⁷⁶

Given that ISP-bound traffic uses the same public switched telephone network as voice traffic, AT&T argues it is incorrect to separate ISP-bound traffic for costing purposes. By example, AT&T contends that consideration of only ISP-bound traffic in the SWBT IBT study misstates the peak hour usage of the network and asserts that all traffic should have been considered in making this estimation.¹⁷⁷ AT&T further argues that the SWBT IBT cost study is an incremental cost study inconsistent with the TELRIC framework.¹⁷⁸ In support of this argument, AT&T cites the inability to accurately separate ISP traffic from voice traffic, the exclusion of tandem switching costs, and the exclusion of many components of end-office switching costs, *i.e.*, Signal System 7 (SS7) capability.¹⁷⁹ Additionally, AT&T advocates the minute-is-a-minute approach in determining network costs, asserting there should be no differentiation in costs by types of traffic.¹⁸⁰

¹⁷⁴ Taylor Comm. Ex. No. 1, Direct Testimony of August H. Ankum at 61-63, 65.

¹⁷⁵ WCOM Ex. No. 1, Direct Testimony of Don Price at 4; Coalition Ex. No. ICG-3, Direct Testimony of Don Wood at 8.

¹⁷⁶ WCOM Ex. No. 1, Direct Testimony of Don Price at 4.

¹⁷⁷ AT&T Ex. No. 3, Direct Testimony of Lee L. Selwyn at 15-17.

¹⁷⁸ AT&T Ex. No. 1, Direct Testimony of Daniel P. Rhinehart at 14.

¹⁷⁹ *Id.* at 7.

¹⁸⁰ *Id.* at 9.